

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

AUG 30 2016

Clerk, U.S. District Court  
District Of Montana  
Missoula

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRIAN WAYNE ROGERS,

Defendant.

CR 16-26-M-DLC

FINDINGS AND  
RECOMMENDATION  
CONCERNING PLEA

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of conspiring to distribute, and possess with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), as set forth in Count I of the Indictment. Defendant further agrees to the forfeiture allegation in the Indictment, and he agrees that he possessed a firearm. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II, IV and VI of the Indictment.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering an

informed and voluntary plea to the criminal offense charged against him, and an informed and voluntary admission to the allegation of forfeiture;

2. That the Defendant is aware of the nature of the charge against him and the consequences of pleading guilty to the charge;

3. That the Defendant understands the allegation of forfeiture and the consequences of admitting to the allegation;

4. That the Defendant fully understands his constitutional rights, and the extent to which he is waiving those rights by pleading guilty to the criminal offense charged against him, and admitting to the allegation of forfeiture;

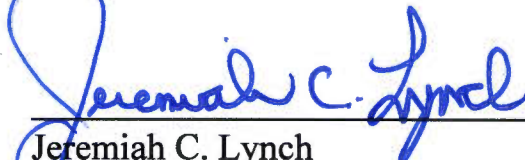
5. That both his plea of guilty to the criminal offense charged against him and his admission to the allegation of forfeiture are knowingly and voluntarily entered, and are both supported by independent factual grounds sufficient to prove each of the essential elements of the criminal offense charged and the legal basis for the forfeiture.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty Count I of the Indictment, that the agreed forfeiture be imposed against Defendant, and that

sentence be imposed. I further recommend that Counts II, IV and VI of the Indictment be dismissed.

**This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.**

DATED this 30<sup>th</sup> day of August, 2016.

  
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Jeremiah C. Lynch  
United States Magistrate Judge